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Ms. Millie Flandro & Dr. Rich Hagood, Co-Chairs  
Education Committee  
Blue Ribbon Task Force  
Office of the Governor  
Boise, Idaho 83720

Re: Draft Recommendation, Home Education

Dear Ms. Flandro, Dr. Hagood, and Members of the Education Committee:

The Boards of Directors of both of the statewide Idaho home schooling organizations, the Idaho Coalition of Home Educators (ICHE) and Christian Homeschoolers of Idaho State (CHOIS), have met to review the draft Education Committee Recommendation regarding home education.

Please accept this letter as the boards' unequivocal statement of opposition to the draft recommendation. The boards encourage you to reject the proposed recommendation in its entirety due to the pervasive misunderstandings it embodies both concerning home education itself, the current state of the law, the educational process, and the fiscal impact that will result from the proposal.

## Introduction:

The draft recommendation issues a call for the registration and testing of all home educated students in the state of Idaho. It places on local school districts (or other private organizations approved by the State Board of Education) the burden of administering the state assessment test and prosecuting students and the parents of those students who fail to achieve basic proficiency levels.

One may well wonder how this proposal falls within the purview of the task force's call to offer suggestions designed "*to produce a blueprint that will guide development of an efficient, effective system of government.*" Indeed, in light of the continuing academic struggles experienced by the public school system, it is startling to encounter a proposal that would burden with a massive bureaucracy the very system in Idaho that produces the highest academic achievement levels.

Regardless of how ill-advised the proposal is on a philosophical level, its inaccuracies in a number of other areas (incorrect factual assertions, the failure to recognize existing legal authorities, erroneous educational methodologies, and

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overlooked fiscal impacts) requires the immediate and unequivocal rejection of the recommendation.

**Factual Errors:**

For a number of years, the board of the Idaho Coalition of Home Educators has heard allegations from professional educators and various members of the state legislature that there were a significant number of children in the state whose parents claimed that they were teaching their children at home when they were, in fact, giving them no education at all. The Accreditation and Elementary Services Coordinator at the Idaho Department of Education claimed that he received an average of two such reports each week.

ICHE's extensive experience with the home education community had not encountered such situations. Because these reports were almost always third or fourth-hand anecdotal accounts, they were extremely difficult to verify or refute.

Nonetheless, ICHE wanted to know if those reports had merit, and to silence the critics of home education if they did not. As a result, ICHE agreed to set up an informal arrangement with the Idaho Department of Education. It was agreed that the Accreditation and Elementary Services Coordinator would serve as the conduit to pass all reports or complaints received by the department to ICHE. Those reports were then forwarded directly to former Rep. Robert Forrey, an advisor to our organization.

Mr. Forrey, a supporter of home education, agreed that he would personally investigate each situation brought to his attention to ascertain if the parents in question was having genuine difficulties in educating their children. If they were, it was agreed that ICHE would offer assistance to the family through the local ICHE regional coordinator. With the wide array of excellent diagnostic tools and curricula available to home educators, an effective educational program can be designed for the individual needs of each home situation. If the parents were truly incapable of providing competent instruction for their children, ICHE would encourage them to place the children into other private or public school settings.

That system was instigated over three years ago. At the end of one year we met with those who had requested that we set up the system to report on the first year's outcomes. The results: not a single complaint had even been passed on to us.

State agencies then put out the word to school districts across the state encouraging school district and law enforcement personnel to pass on all such complaints to the appropriate person at the Department of Education.

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Eventually, after another six months, a cluster of complaints were forwarded to ICHE. Each complaint was investigated. The results for the year 2002, each of which were reported back to the Department of Education as promised, were as follows:

<b><u>Outcome of Inquiry:</u></b>	<b><u>No. of Situations</u></b>
Complaining party failed to respond to letters and calls	6
Complaint did not involve home schooled child	4
Complaining party failed or refused to identify the family about whom the complaint was made	2
Student was not the proper age to be subject to compulsory school law	2
Complaining party or public official indicated the situation was resolved or under control	2
Family and curriculum assessed and found legally adequate	1

**Family and curriculum assessed and found not legally adequate: 0**

So far in 2003, ICHE has received a total of two "complaints." However, one of those was not a complaint about a home educated student. It was a complaint by a home educating family that their child was being hindered in his efforts to participate in his local public school on a dually-enrolled basis. The other contact was a philosophical complaint concerning the lack of forced testing for home educated students.

In short, the massive problems with home education perceived by the professional education community now appear not merely to have been overblown, but essentially nonexistent.

Another myth with which home educators have more recently dealt is that of the "home educated" juvenile delinquent. Accounts have circulated regarding home educated students running wild in the streets under the guise and protection of home education. However, when asked for specific instances of such claims, none have been produced. Indeed, when an Ada County District court judge was recently asked how many home educated persons had been brought before him on juvenile or criminal charges in his fourteen years on the bench, he reported that not a single criminal or juvenile defendant had been home educated.

Does this prove that home educated students have never been in legal trouble? Of course not. Yet quelling the myth remains difficult, if not impossible.

The Task Force Education Committee is now faced with a draft recommendation which seems to presuppose the existence and truth of these two myths. The recommendation claims that there are a significant number of families claiming to home educate who actually are simply keeping the children "out of school for other reasons,

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e.g. neglect, abuse, and home responsibilities.” The draft recommendation likewise includes numerous references to the “truancy” and “juvenile crimes” of home educated students.

Even if the remainder of the draft recommendation were not fatally flawed, this disturbing mischaracterization of home educated students by itself would render the recommendation unworthy of support. However, the other shortcomings of the recommendation are equally pervasive.

**Legal Inaccuracies:**

The draft recommendation also reveals a number of erroneous legal assertions.

First, it repeatedly refers to the federal “*No Child Left Behind Act*” as the rationale and standard that should be applied to home educated students. Yet Title 20, section 7886(b) of the Act states the following:

*“Nothing in this Act shall be construed to affect a home school, whether or not a home school is treated as a home school or a private school under State law, nor shall any student schooled at home be required to participate in any assessment referenced in this Act.”* (emphasis added)

Indeed, any attempt to require home educated students to be tested by an assessment of the type referred to in the Act would violate federal law and might jeopardize the state’s federal funding for education.

Second, the draft recommendation incorrectly asserts that “*(t)here is no provision in the law for the truant officer or any other authority to pursue truancy for home schooled children . . .*” The fact is that, not only are home schooled students subject to all truancy laws, but their parents are also subject to criminal prosecution if they fail to adequately teach their children.

Section 33-206 of the *Idaho Code* states that, “*(a)n habitual truant is . . . any child whose parents or guardians, or any of them, have failed or refused to cause such child to be instructed as provided in section 33-202, Idaho Code, and the child shall come under the purview of the juvenile corrections act if he or she is within the age of compulsory attendance.*” Section 33-202 is the general statute that requires parents to make certain that their children are properly educated, whether within public, private, or parochial school, or by otherwise comparably instructing them at home.

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Within the *Juvenile Corrections Act*, section 20-526 provides that, "*(a)ny person who by any act or neglect encourages, aids, or causes a juvenile to come within the purview or jurisdiction of this chapter . . . shall be guilty of a misdemeanor.*" That, of course, includes the parent of any home schooled child who fails to adequately educate that child.

Consequently, the recommendation's premise that home educated students are not subject to the state's existing truancy laws is false. Not only the students, but the parents, as well, are subject to prosecution and possible detention or incarceration if the child is not being properly educated.

Third, the recommendation mistakenly asserts that the 1992 amendment to section 33-202 resulted in parents being given control of the educational decisions instead of the local school district. However, both before and after the amendment, that statute began with the unequivocal statement that, "*(t)he parent or guardian of any child . . . shall cause the child to be instructed in subjects commonly and usually taught in the public schools of the state of Idaho.*" The responsibility has never been the school district's. It has always been the parents'. The 1992 amendment had absolutely no impact on that fundamental responsibility of the parents.

It is also significant to note that the 1992 amendment was not only supported by home schooling parents, it was supported by various public school administrators, as well. The public school districts only have jurisdiction over the public schools. They have never had, and generally have no desire for, jurisdiction over private schools, parochial schools, or home schools.

Finally, it is worth observing that the draft recommendation, if implemented, would impose a significant bureaucracy on a community that has thus far thrived on precisely those freedoms that have produced the highest academic achievement in the state. Again, one must wonder at the wisdom of governmental intrusion into the very educational system in Idaho that costs the state nothing, and singularly appears not to be in need of fixing.

National studies of academic performance of home educated students have determined that registration and/or testing requirements for home educated students yield no measurable improvement in standardized test scores. On average, test scores are identical whether a state imposes a high degree of regulation, low levels of regulation, or no regulation at all.<sup>1</sup> Since such regulations yield no return on investment, there can be no reason for the state to make that "investment."

An "*effective and efficient*" form of government would reward those who are excelling with ever greater freedoms. Restricting home educators with the bureaucratic burdens called for by this recommendation would be counterproductive.

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The foregoing legal misunderstandings have resulted in a draft recommendation that is unsupportable. However, it also suffers from significant errors as to the presumptions it makes with regard to educational methodology.

**Educational Fallacies:**

The weight of data from several decades of research has established that public school students fail to perform as well academically as do home educated students.<sup>2</sup>

Based upon recent Iowa Tests of Basic Skills test scores, nationally, public school students score on the 50<sup>th</sup> percentile on average. Idaho's public school students perform slightly better, having scored on the 54<sup>th</sup> percentile in 2001, the latest available data. Idaho's own home educated students on average scored on the 84<sup>th</sup> percentile in 2003.

Public school students who are withdrawn to be taught at home will typically reach the 74<sup>th</sup> percentile within the first two years. *"On average home school students in grades 1-4 perform one grade level higher than their public and private school counterparts ... [B]y 8<sup>th</sup> grade, the average home school student performs four grade levels above the national average."*<sup>3</sup>

Tests from Idaho, from other states, and national tests all yield the same results. The academic performance of home educated students as a group is superior.<sup>4</sup>

It is also interesting to note that the socioeconomic status and educational background of the home schooling parents have no statistically significant impact on the academic achievement of the students. Home educated students from impoverished families, regardless of racial background and regardless of the educational achievement of the parents, attain test scores nearly identical to those attained in families with greater wealth and educational background.<sup>5</sup>

From the standpoint of educational methodology, that the draft recommendation calls for the use of Idaho's statewide assessment test to evaluate the quality of the education being received by the home schooled students is very troubling.

In analyzing the propriety of this approach, consider this: in a typical public school classroom, the scores of students taking the assessment test will yield a bell-curve formation. Depending on many factors other than the skill of the teacher, within the same class some students will score at the top of the range while others score at the bottom. By themselves, the scores obtained by an individual student cannot serve as a valid indicator of the effectiveness of the teacher. If a student scores on the 20<sup>th</sup> percentile, we may be inclined to judge the teacher harshly. However, if that student had scored on the 10<sup>th</sup> percentile on the last test, the teacher should have received unrestrained praise for the progress that was seen.

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The draft recommendation makes this mistake: it suggests that all home educated students be forced to take the state assessment test. Then any home educated student that scores below grade level will be forced out of home education. No consideration will be given to the actual aptitude of the student.

The proposal also raises issues of equal protection of the law. The proposal could result in the forced placement of the home schooled student into public school. On the other hand, public school teachers would never be subject to an equivalent penalty. Public school students scoring below grade level would never be forced from the public schools to be taught in private schools, for example. This distinction arguably amounts to an unconstitutional form of discrimination based upon "family status."

While there is an almost irresistible urge to try to bring accountability to the educational arena by standardized, objective testing, the fact is that such an approach tells us almost nothing about the quality of the instruction actually being received by the individual student.

**Fiscal Inaccuracies:**

The draft recommendation offers an unreasonable assessment that the testing program could be made financially self-sustaining, evidently by charging the home schooled families enough to cover the cost of administering the test. Several other aspects of that fiscal impact are worthy of comment.

First, why should the home educated students, who are already saving the state thousands of education dollars each year by their nonuse of the public schools, be required to pay for the cost of assessment tests they have no interest in taking?

Second, the cost of administering the assessment test itself is not the entire cost incurred by the state. In fact, it could be a relatively nominal portion of that cost. If the test results reveal home educated students scoring below grade level, those students would very possibly be forced into the public school system. At present, the state of Idaho pays approximately \$5,000.00 for each public school student each year. If the number of home educated students forced into the public system is significant, the public funds necessary to educate those students will be massive. Since special needs students would be those most likely to score below grade level, the cost per year could even be significantly higher.

Finally, the system proposed by the draft recommendation creates a massive financial conflict of interest. Under the proposal, the public school districts will assess the educational achievement of the home educated students. If the student scores below

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grade level, there is likelihood that the student will end up attending the public schools. This will trigger additional tax revenues being received by the school. Consequently, the school district has a vested financial interest in the outcome of the test, an incentive to do what it can to see that home educated students fail the test. This conflict of interest will create the appearance of the fox guarding the henhouse.

**Conclusions:**

On all counts, the ICHE and CHOIS Boards of Directors believe that the draft recommendation is a poor idea.

It is premised on the myth that significant numbers of home schooled students are being educationally neglected by their parents. They are not.

It is premised on the failure to understand that both home schooled students and their parents are already subject to all statutes on truancy and juvenile delinquency.

It fails to recognize that the federal *No Child Left Behind Act* expressly excludes home educated students from the requirements of the Act and forbids the states from subjecting home educated students to those standards.

It proposes the use of individual test scores in a manner that would punish home school teachers while the equivalent affect on public school teachers would be minimal. It also would improperly attempt to use an individual student's test scores as an indicator of the quality of the education being received by that student.

It potentially would result in a significant enlargement of the public education budget if numerous home schooled students were forced into the public school system.

Worst of all, it threatens to trammel the freedoms of the very students and families that have achieved the highest academic results in the state. Instead of rewarding those results with even greater freedoms, the recommendation would subject thousands of students and their parents to threats to their precious liberties.

For all of the foregoing reasons, the Boards of Directors of the Idaho Coalition of Home Educators and Christian Homeschoolers of Idaho State strongly oppose the

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approval, whether in whole or in part, of the draft recommendation concerning home education.

Sincerely,



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Legal Advisor

Idaho Coalition of Home Educators &  
Christian Homeschoolers of Idaho State

Copies: ICHE Board of Directors  
CHOIS Board of Directors

**ENDNOTES**

<sup>1</sup> Ray, Brian D. *A Nationwide Study of Home Education: Family Characteristics, Legal Matters, and Student Achievement*. Salem: National Home Education Research Institute, 1990.

Ray, Brian D. *Strengths of Their Own—Home Schoolers Across America: Academic Achievement, Family Characteristics, and Longitudinal Traits*. Salem: National Home Education Research Institute, 1997.

<sup>2</sup> Ray, Brian D. *Worldwide Guide to Homeschooling*. Nashville: Broadman and Holman Pub, 2002. 52-55.

<sup>3</sup> Idaho Coalition of Home Educators. *Iowa Tests of Basic Skills: School District Comparison; Test Results Comparison; Test Results Analysis*. Boise: Idaho Coalition of Home Educators, 2003.

Rudner, Lawrence M. *Educational Policy Analysis Archives: The Scholastic Achievement and Demographic Characteristics of Home School Students in 1998*, vol. 7. <http://epaa.asu.edu>.

<sup>4</sup> Ray, Brian D. *Worldwide Guide to Homeschooling*. Nashville: Broadman and Holman Pub, 2002. 55.

<sup>5</sup> Ray, Brian D. *A Nationwide Study of Home Education: Family Characteristics, Legal Matters, and Student Achievement*. Salem: National Home Education Research Institute, 1990.

Ray, Brian D. *Strengths of Their Own—Home Schoolers Across America: Academic Achievement, Family Characteristics, and Longitudinal Traits*. Salem: National Home Education Research Institute, 1997.

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